



Docket No.: NHL-KEH-16 US
Serial No.: 09/966,735
Customer No.: 27877

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

EXAMINER: Daniel W. Howell
ART UNIT: 3722
SERIAL NO.: 09/966,735
FILING DATE: September 28, 2001
INVENTORS: Ulrich KRENZER
TITLE: TWIST DRILL FOR DRILLING, A DRILL WITH A
CUTTING INSERT, AND A REPLACEABLE CUTTING
INSERT FOR A TWIST DRILL

Greensburg, Pennsylvania 15601

Mail Stop Petitions
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

October 15, 2004

PETITION TO THE DIRECTOR UNDER 37 C.F.R. 1.181(a)

Sir:

It is respectfully submitted that the above-cited application has been erroneously abandoned by the U.S. Patent and Trademark Office. It is respectfully requested that the holding of abandonment be withdrawn as the undersigned Attorney for Applicant never received either the Notice of Allowance or Notice of Abandonment relating to the above-cited application, as discussed further below.

Specifically, according to U.S. Patent and Trademark Office records, a Notice of Allowance for the above-cited application was

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mailed on August 8, 2003, and a Notice of Abandonment for failure to pay the Issue Fee for the above-cited application was subsequently mailed on December 19, 2003. However, neither the Notice of Allowance nor the Notice of Abandonment for the above-cited application was received from the U.S. Patent and Trademark Office by the undersigned.

During a recent review of the file records for the undersigned's pending applications, it was noted that the undersigned had not yet received an action or any other communication from the U.S. Patent and Trademark Office relating to the above-cited application since receiving the Notice of Publication on September 3, 2002. The undersigned proceeded to check the U.S. Patent and Trademark Office's online PAIR system and found that the above-cited application had been abandoned due to failure to pay the Issue Fee.

Since the undersigned was not aware that the above-cited application had been allowed, the undersigned was further unaware that the above-cited application had become abandoned. Therefore, all office records of incoming mail were searched for any evidence of receipt of the Notice of Allowance or the Notice of Abandonment for the above-cited application. The office of the undersigned has a

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number of methods of recording the mail received from the U.S.

Patent and Trademark Office, including a written incoming mail log, an electronic database, and individual paper files for each separate application that contain copies of any communications received from the U.S. Patent and Trademark Officer and have another written log that is recorded on the front of each file.

We first checked our paper file for the above-cited application and could not find any copies of either the Notice of the Allowance or the Notice of Abandonment in the file. In addition, the written log on the front of the file contained no entries indicating we had received either of the Notices.

Our next step was to check our electronic database for any entry indicating that a Notice of Allowance relating to the above-cited application had been received. We performed a search of all Notices of Allowance received from the U.S. Patent and Trademark Office between August 1, 2003 and October 31, 2003, and found no record of having received a Notice of Allowance for the above-cited application. We also could not find any record of having received a Notice of Abandonment.

Finally, we checked our written incoming mail log for any entries

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relating to the above-cited application. Yet again, no record was found of ever having received the Notice of Allowance or the Notice of Abandonment relating to the above-cited application. Therefore, according to our paper file, our electronic database, and our written incoming mail log, we never received the Notice of Allowance or the Notice of Abandonment.

The undersigned next instructed a public stenography service in Washington, D.C. to inspect the file for the above-cited application at the U.S. Patent and Trademark Office and make copies of the Notice of Allowance and the Notice of Abandonment. The copy of the Notice of Allowance in the file was consistent with the U.S. Patent and Trademark Office's records in that the mailing date, file information, and the mailing address of the undersigned were all correct. However, the Notice of Abandonment for the above-cited application was not in the U.S. Patent and Trademark file. Instead, the file contained a Notice of Abandonment for a different application, U.S. 09/996,735, which has a nearly identical application serial number as that of the present application. Copies of both of the Notices are being submitted herewith.

In view of this information, it is the opinion of the undersigned

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that because of the similarity of the application numbers for the two applications, the Patent and Trademark Office apparently mixed up the files and possibly sent the Notice of Allowance and/or Notice of Abandonment for the above-cited application to the law firm that handled U.S. 09/996,735.

Further, the undersigned strongly asserts that the abandonment of this application was the result of errors by the U.S. Patent and Trademark Office or the U.S. Postal Service because it is inconceivable to the undersigned that we possibly could have received and then lost not one, but two separate communications from the U.S. Patent and Trademark Office, especially since both relate to only one particular application. In addition, it has been approximately ten years since the undersigned last had an application become temporarily abandoned due to lost or misdirected mail, and, in that situation, the U.S. Patent and Trademark Office was in error and the application was reinstated. Finally, and most importantly, the office of the undersigned has never lost or misfiled incoming mail that resulted in the abandonment of an application.

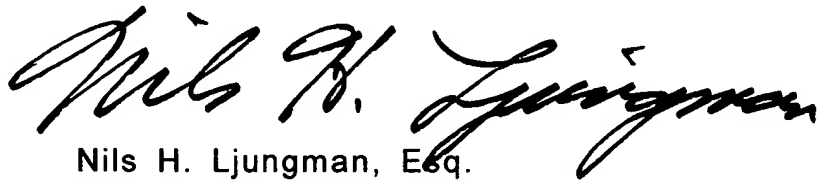
Please find submitted herewith copies of portions of the written mail log of the undersigned showing all incoming mail received

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between August 8, 2003 and August 22, 2003, and between December 19, 2003 and December 31, 2003. (Note: information relating to the identity of other clients of the undersigned and their cases has been blacked out for purposes of confidentiality). In addition, please find submitted herewith a copy of the cover of the individual file folder for the above-cited application, and a printout of the electronic database file showing all Notices of Allowance received by the undersigned from the U.S. Patent and Trademark Office between August 1, 2003 and October 31, 2003.

In view of the above, it is respectfully requested that the abandonment be withdrawn, the above-cited application be reinstated, and a new Notice of Allowance be mailed out.

Respectfully submitted,

A handwritten signature in black ink, reading "Nils H. Ljungman". The signature is fluid and cursive, with the first name "Nils" and last name "Ljungman" clearly legible.

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